THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, 13th September, 2006

W.P.No.11252 of 2004

Between:

Smt. Ch.Sujatha … Petitioner

and

The District Collector,
Nellore and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.11252 of 2004

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the Order of the 1st respondent in D.Dis.(E).172/2003, dated 12-6-2004, wherein the Proceedings of the 2nd respondent in D.Dis.(E) 948/2002, dated 13-2-2003 and the Order of the 3rd respondent in Rc.No.C.91/2002, dated 16-5-2002 cancelling the authorization of the fair price shop dealership of the petitioner in respect of D.C.Palli village, Marripadu Mandal, Nellore district were confirmed, as arbitrary and illegal.

Heard both sides and perused the entire material made available on record.

It appears that the petitioner is a fair price shop dealer of D.C.Palli village, Marripadu Mandal. Her authorization was cancelled by an Order dated 16-5-2002 of the 3rd respondent on the ground that during Janma Bhoomi Grama Sabha at D.C.Palli village, the villagers raised certain allegations against the petitioner stating that she was selling the essential commodities at a higher price than the rates fixed by the Government and a report was called for from the 4th respondent-Mandal Revenue Officer and the Mandal Revenue Officer recommended for taking necessary action after filing his report. The Mandal Revenue Officer seems to have stated that he visited D.C.Palli village and at the time of inspection, nobody came forward to give

statement against her. Though the petitioner submitted an explanation stating that she never distributed the essential commodities at a higher rate, the 3rd respondent cancelled the authorization of the petitioner stating that she was distributing essential commodities at higher rates than the rates prescribed by the Government. Except this, nothing is stated by the 3rd respondent-Revenue Divisional Officer. Aggrieved by the same, the petitioner filed a statutory appeal before the 2nd respondent-Joint Collector. Respondent No.2 simply stated that the Mandal Revenue Officer's report on which the petitioner has banked upon does not give her a clean chit and on the other hand, it has confirmed the allegation of the villagers that she is selling essential commodities at higher prices, though no evidence was recorded as per the report of the Mandal Revenue Officer. Challenging the same, the petitioner filed a revision before the 1st respondent-District Collector. Respondent No.1 simply extracted the operative portion of the Order of the 2nd respondent in verbatim and dismissed the revision.

It is unfortunate that the order passed by the 3rd respondent-Revenue Divisional Officer was confirmed by the 2nd respondent without there being any evidence nor a report is submitted against the petitioner by any authority, which is acceptable in evidence. As per the report of the Mandal Revenue Officer, a copy of which is placed before this Court, nobody came forward to give any evidence against the petitioner and apart from that, there are some political rival groups in the village and they started complaining against each other, which has resulted in the enquiry to be conducted by him. It is not the case of the respondents that the petitioner has prevented anybody in coming forward to give a statement. A general submission made at the Janma Bhoomi Grama Sabha led to the enquiry, wherein nothing was

recorded against the petitioner. But, nonetheless, the 3rd respondent cancelled the authorization of the petitioner on flimsy and frivolous charge, which is not proved. It is unfortunate that respondents 1 and 2 also confirmed the Order passed by the 3rd respondent. I am of the opinion that the Orders passed by the authorities are not supported by any acceptable evidence, apart from the fact that the charge alleged is trivial in its nature. Therefore, the impugned Order of the 3rd respondent as confirmed by respondents 1 and 2 is said to be perverse; as such, the Order dated 16-5-2002 passed by the 3rd respondent as confirmed by respondents 2 and 1 on 13-2-2003 and 12-6-2004 respectively are liable to be set aside and are accordingly set aside.

Accordingly, the Writ Petition is allowed. No order as to costs.

13-9-2006

prk